

FILED
U.S. DISTRICT COURT
CLERK'S OFFICE, MARYLAND

MURRAY R. BERKOWITZ

*

v.

*

* Civil No. JFM-06-985

*

UNITED STATES ARMY

DEC 21 4 11:20

MEMORANDUM

Defendant has filed a motion to dismiss this action for lack of subject matter jurisdiction or to transfer the action to the United States Court of Federal Claims. Plaintiff, who is appearing *pro se*, has filed a response to the motion.

It is clear that plaintiff is asserting a non-tort monetary claim against the United States in excess of \$10,000. Accordingly, the Court of Federal Claims has exclusive jurisdiction over the action. *See Randall v. United States*, 95 F.3d 339, 347 (4th Cir. 1996). In his response, plaintiff effectively acknowledges this point and states "that he will accept transfer of this case to . . . [the] Court of Federal Claims."

In its reply memorandum the United States suggests that transfer to the Court of Federal Claims would be inappropriate "given the significant statute of limitations issues." The position of the United States on the limitations issues may well be meritorious. However, because this court lack subject matter jurisdiction, it would be inappropriate for me to rule upon those issues. Accordingly, I will enter an order transferring this action to the Court of Federal Claims pursuant to 28 U.S.C. §1631.

Date: December 21, 2006

J. Frederick Motz
United States District Judge